



## **FACTUAL HISTORY**

On August 18, 2010 appellant, then a 55-year-old postal inspector, filed an occupational disease alleging that he required a total replacement of his left hip due to his employment duties. On May 10, 2010 x-rays of his left hip revealed that his hip socket was not fully developed and that he required a total hip replacement performed on July 29, 2010. Appellant stated that he carried mail from 1975 through 1978 and from 1978 through 1991, clerked and was a window clerk standing eight hours a day. In 1991 he became a postal inspector which entailed driving up to eight hours a day and strenuous training consisting of shooting firearms, defensive tactics including hand-to-hand combat and participation in arrest scenarios. Appellant stated that his physician informed him that his 35 years of employment aggravated his hip condition.

On July 19, 2010 Dr. Peter Buck, a Board-certified orthopedic surgeon, stated that he was treating appellant's hip and would perform hip replacement surgery. He advised that, although appellant's severe arthritis was not caused by work-related activities, his employment activities were a material aggravation of his condition.

In a letter dated September 14, 2010, OWCP requested that appellant provide additional medical and factual information in support of his claim and allowed 30 days for a response.

By decision dated October 14, 2010, OWCP denied appellant's claim on the grounds that he failed to submit sufficient medical evidence to establish that his employment activities aggravated his degenerative left hip condition.

Appellant requested reconsideration on October 21, 2010 and submitted additional medical evidence. On May 27, 2010 Dr. Buck diagnosed severe degenerative arthritis in the left hip due to mild congenital hip dysplasia. He examined appellant on July 14, 2010 and reviewed x-rays noting severe destructive osteoarthritis involving the superior weight bearing portion of the left hip with bone-on-bone arthritis. Dr. Buck stated, "I think [appellant] has an element of dysplasia which predisposes his hip toward early degeneration." He recommended a total hip replacement. On July 29, 2010 Dr. Buck performed a total left hip arthroplasty due to severe degenerative arthritis of the left hip. On August 11 and September 15, 2010 he advised that appellant could return to work as of October 18, 2010 with restrictions.

By decision dated January 24, 2011, OWCP denied appellant's claim finding that he had not established the causal relationship between his hip condition and his federal employment duties.

Appellant requested reconsideration on April 11, 2011 and submitted a March 26, 2011 report from Dr. Buck, who stated that appellant was not claiming that his work caused the degenerative arthritis in his left hip. Dr. Buck reviewed appellant's work activities and stated, "I feel that [appellant's] work activities have been a material aggravation in his left hip process and degenerative arthritis. I confirm that there is a causal relationship with his work. [Appellant's] work hastened, accelerated and aggravated his hip condition requiring total hip replacement at a young age."

By decision dated June 30, 2011, OWCP denied appellant's claim on the grounds that Dr. Buck did not provide a well-reasoned medical opinion between appellant's left hip condition and his work duties. It found that Dr. Buck provided a conclusory statement supporting medical reasoning, but did not provide any medical rationale in support of his opinion.

### **LEGAL PRECEDENT**

OWCP's regulations define an occupational disease as "a condition produced by the work environment over a period longer than a single workday or shift."<sup>2</sup> To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant. The evidence required to establish causal relationship is rationalized medical opinion evidence, based upon a complete factual and medical background, showing a causal relationship between the claimed condition and identified factors. The belief of a claimant that a condition was caused or aggravated by the employment is not sufficient to establish causal relation.<sup>3</sup>

Under FECA when employment factors cause an aggravation of an underlying condition, the employee is entitled to compensation for the periods of disability related to the aggravation. Where the aggravation is temporary and leaves no permanent residuals, compensation is not payable for periods after the aggravation has ceased, even if the employee is medically disqualified to continue employment because of the effect work factors may have on the underlying condition.<sup>4</sup>

Proceedings under FECA are not adversarial in nature and OWCP is not a disinterested arbiter. While the claimant has the burden to establish entitlement to compensation, OWCP shares responsibility to see that justice is done.<sup>5</sup> The nonadversarial policy of proceedings under FECA is reflected in OWCP's regulations at section 10.121.<sup>6</sup>

### **ANALYSIS**

Appellant has alleged that the degenerative disease process in his left hip was aggravated by his employment activities as a mail carrier and a postal inspector. He submitted medical

---

<sup>2</sup> 20 C.F.R. § 10.5(q).

<sup>3</sup> *Lourdes Harris*, 45 ECAB 545, 547 (1994).

<sup>4</sup> *Raymond W. Behrens*, 50 ECAB 221 (1999).

<sup>5</sup> *Jimmy A. Hammons*, 51 ECAB 219 (1999).

<sup>6</sup> 20 C.F.R. § 10.121.

evidence from Dr. Buck diagnosing severe degenerative arthritis in the left hip. Appellant also described his employment duties.

The medical evidence in the record consists of a series of notes and reports from Dr. Buck, who provided an opinion that appellant had degenerative arthritis due to mild congenital hip dysplasia in May and July 2010 with an element of dysplasia, which predisposed his left hip toward early degeneration. On July 19, 2010 Dr. Buck opined that, although appellant's severe arthritis was not caused by work-related activities, his employment activities were a "material aggravation" of his condition. He further identified a plausible relationship between appellant's employment and his left hip condition on March 26, 2011 noting that he had reviewed appellant's work activities. Dr. Buck again opined that appellant's work had aggravated his left hip arthritis.

As noted above, proceedings under FECA are not adversarial in nature and OWCP is not a disinterested arbiter. OWCP shares responsibility in the development of the evidence to see that justice is done. Dr. Buck provided an opinion that appellant's work duties aggravated his left hip condition, although not to a reasonable degree of medical certainty. He based his review on x-rays and the surgery he performed. Dr. Buck stated that he was aware of appellant's employment duties. His opinion that employment factors aggravated appellant's degenerative hip arthritis generally support appellant's claim.

Causal relationship does not denote a single and exclusive causative factor. Where a person has a preexisting condition which is not disabling but which becomes disabling because of aggravation causally related to the employment, then regardless of the degree of such aggravation, the resulting disability is compensable.<sup>7</sup> While the medical evidence from Dr. Buck is not fully rationalized so as to meet appellant's burden of proof, it raises an undisputed inference of causal relationship which is not contradicted by any other medical evidence of record and is sufficient to require further development by OWCP.<sup>8</sup> Accordingly, the Board will remand the case for further development of the medical record to determine whether appellant sustained an employment-related aggravation of his degenerative left hip arthritis necessitating surgery.<sup>9</sup> Following this and such other further development as OWCP deems necessary, it shall issue a *de novo* decision.

### **CONCLUSION**

The Board finds that the case is not in posture for decision as it requires further development of the medical evidence.

---

<sup>7</sup> When employment factors cause an aggravation of an underlying condition, the employee is entitled to compensation for the periods of disability related to the aggravation. See *Chris Wells*, 52 ECAB 445 (2001).

<sup>8</sup> See, e.g., *E.J.*, Docket No. 09-1481 (issued February 19, 2010).

<sup>9</sup> *B.S.*, Docket No. 11-48 (issued July 18, 2011).

**ORDER**

**IT IS HEREBY ORDERED THAT** June 30 and January 24, 2011 decisions of the Office of Workers' Compensation Programs are set aside and remanded for further development consistent with this decision of the Board.

Issued: February 22, 2012  
Washington, DC

Richard J. Daschbach, Chief Judge  
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge  
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge  
Employees' Compensation Appeals Board